

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **08-MSRC-111**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

**FINAL ORDER
FOR WOLFORD**

EDWARD B. WOLFORD, CHANNON J. ADKINS
& THOMAS M. CHAPMAN

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Edward Wolford, and the members of the Commission having reviewed the Settlement Agreement filed on or after December 11, 2008 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

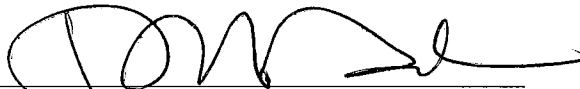
1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and **pre-hearing** conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 11TH day of Dec 2008.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 16TH day of Dec 2008:

HON. BILLY SHELTON
151 N. EAGLE CR. DR. STE 310
LEXINGTON, KY **40509**

Counsel for:
EDWARD B. WOLFORD
795 SMITH FORK RD.
PHELPS, KY 41553

And by regular mail to;

THOMAS M. CHAPMAN
P.O. BOX 260
RACOON, KY 41557


CHANNON J. ADKINS
127 LOCUST ST.
PHELPS, KY 41553

And by messenger mail to:

HON. STEPHEN C. BOYD
OFFICE OF GENERAL COUNSEL
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ **564- 2356**
FAX 502/ 564 - 9212
Counsel for OMSL

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryan Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

**KENTUCKY MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 08-MSRC-111**

KENTUCKY OFFICE OF MINESAFETY AND LICENSING

COMPLAINANT

V.

**SETTLEMENT AGREEMENT BETWEEN OMSL
AND EDWARD BRENT WOLFORD**

WOLFORD, ADKINS AND CHAPMAN

RESPONDENTS

Come the Complainant, the Kentucky Office of Mine Safety and Licensing ("OMSL"), and Respondent Edward Brent Wolford ("Wolford"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, and the cancellation of the hearing (as it pertains to him) that is currently scheduled for December 11, 2008 at 11:00 a.m., hereby admits that he had violated 805 KAR 5:030, Section 2(3) underground at McCoy Elkhorn #26 mine in violation of KRS 351 and 352, as alleged in OMSL's Complaint. This Settlement only concerns Wolford. Therefore, Wolford hereby agrees to the following:

1. The probation of his underground miner's certificate for a period of one (1) year, effective upon the signing of this Settlement Agreement by both parties.

2. During this one (1) year probationary period, Wolford shall comply with all state and federal mine safety laws and regulations. The willful violation by Wolford of any said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground miner's certificate for the remainder of the probationary period.

3. Within forty-five (45) days of the effective date of this Settlement Agreement, Wolford must take eight (8) hours of special safety training from OMSL at its Pikeville District Office.

4. Wolford further agrees that this Settlement Agreement and any final Order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense," as that term is defined at 805 KAR 8:010, Section 1(13).

5. Wolford further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it, and that he understands and agrees to its terms and provisions.

6. OMSL and Wolford acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

Edward B Wolford
EDWARD BRENT WOLFORD

12-11-08
DATE

Johnny Greene
JOHNNY GREENE, EXECUTIVE DIRECTOR
KY Office of Mine Safety and Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

12-4-08
DATE

Merit L. Allen for Billy Shelton
HON. BILLY SHELTON
Counsel for Edward Brent Wolford

12-11-08
DATE